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9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA

11 EDGARDO SEMINIANO,

12 Plaintiff,

13 vs.

14 XYRIS ENTERPRISE, INC.;  
15 ATKINSON CARE HOME;  
16 MUQUET DADABHOY; AND  
17 TERESITA CASTANEDA,

18 Defendants.

CASE NO: CV 10-01673- JST (JEMx)

[PROPOSED] STATEMENT OF  
UNCONTROVERTED FACTS AND  
CONCLUSIONS OF LAW

DATE: JANUARY 3, 2011  
TIME: 10:00 A.M.  
COURTROOM: 10A

JUDGE: HONORABLE JOSEPHINE  
STATON TUCKER

Plaintiff hereby respectfully submits this statement of uncontroverted facts and conclusions of law in support of his motion for summary judgment:

**I. UNCONTROVERTED FACTS**

UNCONTROVERTED FACT	SUPPORTING EVIDENCE
<p>1. Xyris Enterprise, Inc. was a joint employer of Edgardo Seminiano between July 29, 2008, and December 2, 2009.</p>	<p>Request for admission 1 propounded to Defendant Xyris Enterprise, Inc. (Exhibit A); Request for admission 1 propounded to Atkinson Care Home (Exhibit B); Request for admission number 1 propounded to Muquet Dadabhoy (Exhibit C); Request for admission number 1 propounded to Teresita Castaneda (Exhibit D); Declaration of Dennis W. Rihn, paragraphs 2-3.</p>
<p>2. Atkinson Care Home was a joint employer of Edgardo Seminiano between July 29, 2008, and December 2, 2009.</p>	<p>Request for admission 2 propounded to Defendant Xyris Enterprise, Inc. (Exhibit A); Request for admission 2 propounded to Atkinson Care Home (Exhibit B); Request for admission number 2 propounded to Muquet Dadabhoy (Exhibit C); Request for admission number 2 propounded to Teresita Castaneda (Exhibit D); Declaration of Dennis W. Rihn, paragraphs 2-3.</p>

<p>1 3. Muquet Dadabhoy was a joint</p> <p>2 employer of Edgardo Seminiano</p> <p>3 between July 29, 2008, and December 2,</p> <p>4 2009.</p>	<p>Request for admission 3 propounded to</p> <p>Defendant Xyris Enterprise, Inc.</p> <p>(Exhibit A); Request for admission 3</p> <p>propounded to Atkinson Care Home</p> <p>(Exhibit B); Request for admission</p> <p>number 3 propounded to Muquet</p> <p>Dadabhoy (Exhibit C); Request for</p> <p>admission number 3 propounded to</p> <p>Teresita Castaneda (Exhibit D);</p> <p>Declaration of Dennis W. Rihn,</p> <p>paragraphs 2-3.</p>
<p>12 4. Teresita Castaneda was a joint</p> <p>13 employer of Edgardo Seminiano</p> <p>14 between July 29, 2008, and December 2,</p> <p>15 2009.</p>	<p>Request for admission 4 propounded to</p> <p>Defendant Xyris Enterprise, Inc.</p> <p>(Exhibit A); Request for admission 4</p> <p>propounded to Atkinson Care Home</p> <p>(Exhibit B); Request for admission</p> <p>number 4 propounded to Muquet</p> <p>Dadabhoy (Exhibit C); Request for</p> <p>admission number 4 propounded to</p> <p>Teresita Castaneda (Exhibit D);</p> <p>Declaration of Dennis W. Rihn,</p> <p>paragraphs 2-3.</p>

<p>1 5. Between July 29, 2008, and December</p> <p>2 2, 2009, Plaintiff worked as a caregiver</p> <p>3 at Atkinson Care Home.</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p>	<p>Request for admission 5 propounded to</p> <p>Defendant Xyris Enterprise, Inc.</p> <p>(Exhibit A); Request for admission 5</p> <p>propounded to Atkinson Care Home</p> <p>(Exhibit B); Request for admission</p> <p>number 5 propounded to Muquet</p> <p>Dadabhoy (Exhibit C); Request for</p> <p>admission number 5 propounded to</p> <p>Teresita Castaneda (Exhibit D);</p> <p>Declaration of Dennis W. Rihn,</p> <p>paragraphs 2-3.</p>
<p>12 6. Between July 29, 2008, and December</p> <p>13 2, 2009, Atkinson Care Home was a</p> <p>14 licensed residential care facility for the</p> <p>15 elderly located at 17035 Atkinson</p> <p>16 Avenue, Torrance, CA 90504.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>Request for admission 6 propounded to</p> <p>Defendant Xyris Enterprise, Inc.</p> <p>(Exhibit A); Request for admission 6</p> <p>propounded to Atkinson Care Home</p> <p>(Exhibit B); Request for admission</p> <p>number 6 propounded to Muquet</p> <p>Dadabhoy (Exhibit C); Request for</p> <p>admission number 6 propounded to</p> <p>Teresita Castaneda (Exhibit D);</p> <p>Declaration of Dennis W. Rihn,</p> <p>paragraphs 2-3.</p>

<p>1 7. Between July 29, 2008, and December</p> <p>2 2, 2009, Defendants Muquet Dadabhoy</p> <p>3 and Teresita Castaneda were the</p> <p>4 licensees of the Atkinson Care Home.</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p>	<p>Request for admission 7 propounded to</p> <p>Defendant Xyris Enterprise, Inc.</p> <p>(Exhibit A); Request for admission 7</p> <p>propounded to Atkinson Care Home</p> <p>(Exhibit B); Request for admission</p> <p>number 7 propounded to Muquet</p> <p>Dadabhoy (Exhibit C); Request for</p> <p>admission number 7 propounded to</p> <p>Teresita Castaneda (Exhibit D);</p> <p>Declaration of Dennis W. Rihn,</p> <p>paragraphs 2-3.</p>
<p>12 8. Between July 29, 2008, and December</p> <p>13 2, 2009, Defendants Muquet Dadabhoy</p> <p>14 and Teresita Castaneda jointly operated</p> <p>15 Atkinson Care Home as partners.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>Request for admission 8 propounded to</p> <p>Defendant Xyris Enterprise, Inc.</p> <p>(Exhibit A); Request for admission 8</p> <p>propounded to Atkinson Care Home</p> <p>(Exhibit B); Request for admission</p> <p>number 8 propounded to Muquet</p> <p>Dadabhoy (Exhibit C); Request for</p> <p>admission number 8 propounded to</p> <p>Teresita Castaneda (Exhibit D);</p> <p>Declaration of Dennis W. Rihn,</p> <p>paragraphs 2-3.</p>

<p>1 9. Between July 29, 2008, and December</p> <p>2 2, 2009, Defendants Muquet Dadabhoy</p> <p>3 and Teresita Castaneda were required to</p> <p>4 operate Atkinson Care Home 24 hours</p> <p>5 per day, 7 days per week.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p>	<p>Request for admission 9 propounded to</p> <p>Defendant Xyris Enterprise, Inc.</p> <p>(Exhibit A); Request for admission 9</p> <p>propounded to Atkinson Care Home</p> <p>(Exhibit B); Request for admission</p> <p>number 9 propounded to Muquet</p> <p>Dadabhoy (Exhibit C); Request for</p> <p>admission number 9 propounded to</p> <p>Teresita Castaneda (Exhibit D);</p> <p>Declaration of Dennis W. Rihn,</p> <p>paragraphs 2-3.</p>
<p>12 10. Between July 29, 2008, and</p> <p>13 December 2, 2009, Plaintiff Edgardo</p> <p>14 Seminiano was required by Defendants</p> <p>15 Muquet Dadabhoy and Teresita</p> <p>16 Castaneda to request permission to leave</p> <p>17 Atkinson Care Home.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>Request for admission 10 propounded to</p> <p>Defendant Xyris Enterprise, Inc.</p> <p>(Exhibit A); Request for admission 10</p> <p>propounded to Atkinson Care Home</p> <p>(Exhibit B); Request for admission</p> <p>number 10 propounded to Muquet</p> <p>Dadabhoy (Exhibit C); Request for</p> <p>admission number 10 propounded to</p> <p>Teresita Castaneda (Exhibit D);</p> <p>Declaration of Dennis W. Rihn,</p> <p>paragraphs 2-3.</p>

<p>11. Plaintiff Edgardo Seminiano was never unconditionally allowed to leave Atkinson Care Home more than 57 hours in any week between July 29, 2008, and December 2, 2009.</p>	<p>Request for admission 11 propounded to Defendant Xyris Enterprise, Inc. (Exhibit A); Request for admission 11 propounded to Atkinson Care Home (Exhibit B); Request for admission number 11 propounded to Muquet Dadabhoy (Exhibit C); Request for admission number 11 propounded to Teresita Castaneda (Exhibit D); Declaration of Dennis W. Rihn, paragraphs 2-3.</p>
<p>12. Plaintiff's hours worked each week between July 29, 2008, and December 2, 2009, were 111 or more.</p>	<p>Request for admission 12 propounded to Defendant Xyris Enterprise, Inc. (Exhibit A); Request for admission 12 propounded to Atkinson Care Home (Exhibit B); Request for admission number 12 propounded to Muquet Dadabhoy (Exhibit C); Request for admission number 12 propounded to Teresita Castaneda (Exhibit D); Declaration of Dennis W. Rihn, paragraphs 2-3.</p>

1 2 3 4 5 6 7 8 9 10 11	13. Edgardo Seminiano did not have private living quarters while working at Atkinson Care Home.	Request for admission 13 propounded to Defendant Xyris Enterprise, Inc. (Exhibit A); Request for admission 13 propounded to Atkinson Care Home (Exhibit B); Request for admission number 13 propounded to Muquet Dadabhoy (Exhibit C); Request for admission number 13 propounded to Teresita Castaneda (Exhibit D); Declaration of Dennis W. Rihn, paragraphs 2-3.
12 13 14 15 16 17 18 19 20 21 22	14. Between July 29, 2008, and December 2, 2009, Edgardo Seminiano slept on a couch at Atkinson Care Home.	Request for admission 14 propounded to Defendant Xyris Enterprise, Inc. (Exhibit A); Request for admission 14 propounded to Atkinson Care Home (Exhibit B); Request for admission number 14 propounded to Muquet Dadabhoy (Exhibit C); Request for admission number 14 propounded to Teresita Castaneda (Exhibit D); Declaration of Dennis W. Rihn, paragraphs 2-3.
23 24 25 26 27 28	15. Xyris Enterprise, Inc. owes Edgardo Seminiano \$53,649.18 in unpaid minimum wage and overtime compensation under the Fair Labor Standards Act.	Request for admission 15 propounded to Defendant Xyris Enterprise, Inc. (Exhibit A); Declaration of Dennis W. Rihn, paragraphs 2-3.



16. Atkinson Care Home owes Edgardo Seminiano \$53,649.18 in unpaid minimum wage and overtime compensation under the Fair Labor Standards Act.	Request for admission 15 propounded to Defendant Atkinson Care Home (Exhibit B); Declaration of Dennis W. Rihn, paragraphs 2-3.
17. Muquet Dadabhoy owes Edgardo Seminiano \$53,649.18 in unpaid minimum wage and overtime compensation under the Fair Labor Standards Act.	Request for admission 15 propounded to Defendant Muquet Dadabhoy (Exhibit C); Declaration of Dennis W. Rihn, paragraphs 2-3.
18. Teresita Castaneda owes Edgardo Seminiano \$53,649.18 in unpaid minimum wage and overtime compensation under the Fair Labor Standards Act.	Request for admission number 15 propounded to Teresita Castaneda (Exhibit D); Declaration of Dennis W. Rihn, paragraphs 2-3.
19. Xyris Enterprise, Inc. owes Edgardo Seminiano \$53,649.18 in liquidated damages under the Fair Labor Standards Act.	Request for admission 16 propounded to Defendant Xyris Enterprise, Inc. (Exhibit A); Declaration of Dennis W. Rihn, paragraphs 2-3.
20. Atkinson Care Home owes Edgardo Seminiano \$53,649.18 in liquidated damages under the Fair Labor Standards Act.	Request for admission 16 propounded to Atkinson Care Home (Exhibit B); Declaration of Dennis W. Rihn, paragraphs 2-3.
21. Muquet Dadabhoy owes Edgardo Seminiano \$53,649.18 in liquidated damages under the Fair Labor Standards Act.	Request for admission 16 propounded to Defendant Muquet Dadabhoy (Exhibit C); Declaration of Dennis W. Rihn, paragraphs 2-3.

22. Teresita Castaneda owes Edgardo Seminiano \$53,649.18 in liquidated damages under the Fair Labor Standards Act.	Request for admission 16 propounded to Defendant Teresita Castaneda (Exhibit D); Declaration of Dennis W. Rihn, paragraphs 2-3.
23. Xyris Enterprise, Inc. owes Edgardo Seminiano \$121,855.42 in unpaid overtime compensation under California law.	Request for admission 17 propounded to Defendant Xyris Enterprise, Inc. (Exhibit A); Declaration of Dennis W. Rihn, paragraphs 2-3.
24. Atkinson Care Home owes Edgardo Seminiano \$121,855.42 in unpaid overtime compensation under California law.	Request for admission 17 propounded to Atkinson Care Home (Exhibit B); Declaration of Dennis W. Rihn, paragraphs 2-3.
25. Muquet Dadabhoy owes Edgardo Seminiano \$121,855.42 in unpaid overtime compensation under California law.	Request for admission 17 propounded to Defendant Muquet Dadabhoy (Exhibit C); Declaration of Dennis W. Rihn, paragraphs 2-3.
26. Teresita Castaneda owes Edgardo Seminiano \$121,855.42 in unpaid overtime compensation under California law.	Request for admission 17 propounded to Defendant Teresita Castaneda (Exhibit D); Declaration of Dennis W. Rihn, paragraphs 2-3.
27. Xyris Enterprise, Inc. owes Edgardo Seminiano \$4,749.36 in compensation for meal periods not received pursuant to California Labor Code Section 226.7.	Request for admission 18 propounded to Defendant Xyris Enterprise, Inc. (Exhibit A); Declaration of Dennis W. Rihn, paragraphs 2-3.
28. Atkinson Care Home owes Edgardo Seminiano \$4,749.36 in compensation for meal periods not received pursuant to California Labor Code Section 226.7.	Request for admission 18 propounded to Atkinson Care Home (Exhibit B); Declaration of Dennis W. Rihn, paragraphs 2-3.
29. Muquet Dadabhoy owes Edgardo	Request for admission 18 propounded to

1	Seminiano \$4,749.36 in compensation	Defendant Muquet Dadabhoy (Exhibit
2	for meal periods not received pursuant to	C); Declaration of Dennis W. Rihn,
3	California Labor Code Section 226.7.	paragraphs 2-3.
4	30. Teresita Castaneda owes Edgardo	Request for admission 18 propounded to
5	Seminiano \$4,749.36 in compensation	Defendant Teresita Castaneda (Exhibit
6	for meal periods not received pursuant to	D); Declaration of Dennis W. Rihn,
7	California Labor Code Section 226.7.	paragraphs 2-3.
8	31. Xyris Enterprise, Inc. owes Edgardo	Request for admission 19 propounded to
9	Seminiano \$2,467.20 for continuing	Defendant Xyris Enterprise, Inc.
10	wages pursuant to California Labor	(Exhibit A); Declaration of Dennis W.
11	Code Section 203.	Rihn, paragraphs 2-3.
12	32. Atkinson Care Home owes Edgardo	Request for admission 19 propounded to
13	Seminiano \$2,467.20 for continuing	Atkinson Care Home (Exhibit B);
14	wages pursuant to California Labor	Declaration of Dennis W. Rihn,
15	Code Section 203.	paragraphs 2-3.
16	33. Muquet Dadabhoy owes Edgardo	Request for admission 19 propounded to
17	Seminiano \$2,467.20 for continuing	Defendant Muquet Dadabhoy (Exhibit
18	wages pursuant to California Labor	C); Declaration of Dennis W. Rihn,
19	Code Section 203.	paragraphs 2-3.
20	34. Teresita Castaneda owes Edgardo	Request for admission 19 propounded to
21	Seminiano \$2,467.20 for continuing	Defendant Teresita Castaneda (Exhibit
22	wages pursuant to California Labor	D); Declaration of Dennis W. Rihn,
23	Code Section 203.	paragraphs 2-3.
24	35. Xyris Enterprise, Inc. owes Edgardo	Request for admission 20 propounded to
25	Seminiano \$4000.00 for failure to	Defendant Xyris Enterprise, Inc.
26	comply with California Labor Code	(Exhibit A); Declaration of Dennis W.
27	Section 226.	Rihn, paragraphs 2-3.
28	36. Atkinson Care Home owes Edgardo	Request for admission 20 propounded to

1 2 3	Seminiano \$4000.00 for failure to comply with California Labor Code Section 226.	Atkinson Care Home (Exhibit B); Declaration of Dennis W. Rihn, paragraphs 2-3.
4 5 6 7	37. Muquet Dadabhoy owes Edgardo Seminiano \$4000.00 for failure to comply with California Labor Code Section 226.	Request for admission 20 propounded to Defendant Muquet Dadabhoy (Exhibit C); Declaration of Dennis W. Rihn, paragraphs 2-3.
8 9 10 11	38. Teresita Castaneda owes Edgardo Seminiano \$4000.00 for failure to comply with California Labor Code Section 226.	Request for admission 20 propounded to Defendant Teresita Castaneda (Exhibit D); Declaration of Dennis W. Rihn, paragraphs 2-3.

## II. CONCLUSIONS OF LAW

Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Xyris Enterprise, Inc. on the first cause of action in the amount of \$107,298.36.

Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Xyris Enterprise, Inc. on the second cause of action in the amount of \$133,071.98.

Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Atkinson Care Home on the first cause of action in the amount of \$107,298.36.

Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Atkinson Care Home on the second cause of action in the amount of \$133,071.98.

Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Muquet Dadabhoy on the first cause of action in the amount of \$107,298.36.

Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Muquet Dadabhoy on the second cause of action in the amount of \$133,071.98.

Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Teresita Castaneda on the first cause of action in the amount of \$107,298.36.

Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Teresita Castaneda on the second cause of action in the amount of \$133,071.98.

1 To avoid duplication of recoveries, Plaintiff Edgardo Seminiano is entitled to  
2 judgment in this action against Defendants Muquet Dadabhoy, Teresita Castaneda,  
3 Atkinson Care Home and Xyris Enterprise, Inc., jointly and severally, in the total  
4 amount of \$133,071.98.

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6 Dated: \_\_\_\_\_

7 THE HONORABLE JOSEPHINE STATON  
8 TUCKER, UNITED STATES DISTRICT  
9 COURT JUDGE  
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